



(2)

11

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 1648

Examiner: Zachariah Lucas

In re application of:
Martha A. Wild *et al.*

Serial No.: 09/994,064

Filing Date: November 6, 2001

Attorney Docket No.: SY01106KQB

Title:
RECOMBINANT INFECTIOUS
LARYNGOTRACHEITIS VIRUS
AND USES THEREOF

RECEIVED

FEB 03 2003

TECH CENTER 1600/2900

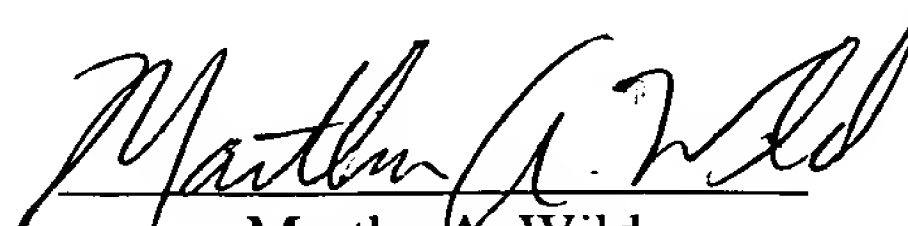
DECLARATION UNDER 37 C.F.R. § 1.132

I, Martha A. Wild, hereby declare as follows:

1. I am named as an inventor on the above-referenced patent application. I am informed that the claims in the above-referenced patent application have been amended to recite an isolated nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 11.
2. Furthermore, I am informed that Schering-Plough Corporation received an Office Action having a mailing date of October 22, 2002 in the above-referenced application, rejecting the claims under 35 U.S.C. §§ 112, 102 and 103. I have also been informed that the examiner rejected claims 39, 40, 43, 45, 46, 48 and 49 under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,123,949 ("the '949 patent") because SEQ ID NO: 19 of the '949 patent teaches the nucleic acids claimed in the above-referenced application.
3. The '949 patent claims a recombinant fowlpox virus designated S-FPV-043, a vaccine, and a method of immunizing an animal against fowlpox virus and Newcastle disease virus. The '949 patent also discloses, but does not claim, nucleic acid and amino acid sequences for an ILTV glycoprotein D in SEQ ID NOs: 19 and 20.
4. The nucleic acid and amino acid sequences defined by SEQ ID NOs: 19 and 20 of the '949 patent were invented by Mark D. Cochran and myself. The sequences were disclosed to David E. Junker, one of the inventors of the '949 patent, by Mark D. Cochran and myself while we worked together at Syntro Corporation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statement were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment or both under 18 U.S.C. § 1001 and that such willful false statement may jeopardize the validity of the application and any patent issued thereon.



Martha A. Wild

1/22/03

Date



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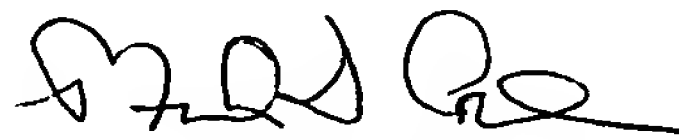
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I, Mark D. Cochran, hereby declare as follows:

1. I am named as an inventor on the above-referenced patent application. I am informed that the claims in the above-referenced patent application have been amended to recite an isolated nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 11.
2. Furthermore, I am informed that Schering-Plough Corporation received an Office Action having a mailing date of October 22, 2002 in the above-referenced application, rejecting the claims under 35 U.S.C. §§ 112, 102 and 103. I have also been informed that the examiner rejected claims 39, 40, 43, 45, 46, 48 and 49 under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,123,949 ("the '949 patent") because SEQ ID NO: 19 of the '949 patent teaches the nucleic acids claimed in the above-referenced application.
3. I am named as an inventor on the '949 patent, claiming a recombinant fowlpox virus designated S-FPV-043, a vaccine, and a method of immunizing an animal against fowlpox virus and Newcastle disease virus. The '949 patent also discloses, but does not claim, nucleic acid and amino acid sequences for an ILTV glycoprotein D in SEQ ID NOs: 19 and 20.
4. The nucleic acid and amino acid sequences defined by SEQ ID NOs: 19 and 20 of the '949 patent were invented by Martha A. Wild and myself. The sequences were disclosed to David E. Junker, the co-inventor of the '949 patent, by Martha A. Wild and myself while we worked together at Syntro Corporation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statement were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment or both under 18 U.S.C. § 1001 and that such willful false statement may jeopardize the validity of the application and any patent issued thereon.



Mark D. Cochran

1-22-03

Date